

*reimbursement or stipends for graduates of degree programs in this state who practice or agree to practice in a medically underserved community.*

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Passed the Senate on February 13, 2001: Yeas 30, Nays 0, one present, not voting; and that the Senate concurred in House amendment on May 15, 2001: Yeas 30, Nays 0, one present, not voting; passed the House, with amendment, on May 8, 2001: Yeas 147, Nays 0, two present, not voting.

Approved May 28, 2001.

Effective May 28, 2001.

## CHAPTER 436

S.B. No. 221

### AN ACT

relating to government purchasing using the reverse auction procedure.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 2155.062, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) In purchasing goods and services the commission may use, but is not limited to, the:

- (1) contract purchase procedure;
- (2) multiple award contract procedure; [or]
- (3) open market purchase procedure; or
- (4) reverse auction procedure.

(d) In this section, "reverse auction procedure" means:

- (1) a real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
- (2) a bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

SECTION 2. The heading of Section 252.021, Local Government Code, is amended to read as follows:

Sec. 252.021. ~~COMPETITIVE [BIDDING AND COMPETITIVE PROPOSAL]~~  
REQUIREMENTS FOR CERTAIN PURCHASES.

SECTION 3. Subsection (a), Section 252.021, Local Government Code, is amended to read as follows:

(a) Before a municipality may enter into a contract that requires an expenditure of more than \$15,000 from one or more municipal funds, the municipality must:

- (1) comply with the procedure prescribed by this chapter for competitive sealed bidding or competitive sealed proposals; or
- (2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing.

SECTION 4. Section 262.023, Local Government Code, is amended to read as follows:

Sec. 262.023. COMPETITIVE ~~[BIDDING AND COMPETITIVE PROPOSAL]~~ REQUIREMENTS FOR CERTAIN PURCHASES. (a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$25,000, the commissioners court of the county must comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter *or use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing.* All competitive bids or competitive proposals must be sealed.

(b) The ~~[competitive bidding and competitive proposal]~~ requirements established by Subsection (a) apply only to contracts for which payment will be made from current funds or bond funds or through time warrants. However, contracts for which payments will be made through certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271). Contracts for which payment will be made through anticipation notes are subject to the competitive bidding provisions of The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271) in the same manner as certificates of obligation.

(c) In applying the ~~[competitive bidding and competitive proposal]~~ requirements established by Subsection (a), all separate, sequential, or component purchases of items ordered or purchased, with the intent of avoiding the ~~[competitive bidding and competitive proposal]~~ requirements of this subchapter, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract. In applying this provision to the purchase of office supplies, separate purchases of supplies by an individual department are not considered to be part of a single purchase and single contract by the county if a specific intent to avoid the ~~[competitive bidding]~~ requirements of this subchapter is not present.

SECTION 5. Subsections (a) and (b), Section 271.083, Local Government Code, are amended to read as follows:

(a) A local government may participate in the purchasing program of the commission, *including participation in purchases that use the reverse auction procedure, as defined by Section 2155.062(d), Government Code,* by filing with the commission a resolution adopted by the governing body of the local government requesting that the local government be allowed to participate on a voluntary basis, and to the extent the commission deems feasible, and stating that the local government will:

(1) designate an official to act for the local government in all matters relating to the program, including the purchase of items from the vendor under any contract; and that the governing body will direct the decisions of the representative;

(2) be responsible for:

(A) submitting requisitions to the commission under any contract; or

(B) electronically sending purchase orders directly to vendors, *or complying with commission procedures governing a reverse auction purchase,* and electronically sending to the commission reports on actual purchases made under this paragraph that provide the information and are sent at the times required by the commission;

(3) be responsible for making payment directly to the vendor; and

(4) be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

(b) A local government that purchases an item under a state contract *or under a reverse auction procedure, as defined by Section 2155.062(d), Government Code,* sponsored by the commission satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

SECTION 6. Subchapter Z, Chapter 271, Local Government Code, is amended by adding Section 271.906 to read as follows:

*Sec. 271.906. REVERSE AUCTION METHOD OF PURCHASING. (a) A local government, as defined by Section 271.081, may use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, in purchasing goods and services in place of any other method of purchasing that would otherwise apply to the purchase.*

*(b) A local government that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the local government and fair to vendors.*

SECTION 7. Subsection (a), Section 44.031, Education Code, is amended to read as follows:

(a) Except as provided by this subchapter, all school district contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$25,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the district:

- (1) competitive bidding;
- (2) competitive sealed proposals;
- (3) a request for proposals, for services other than construction services;
- (4) a catalogue purchase as provided by Subchapter B, Chapter 2157, Government Code;
- (5) an interlocal contract;
- (6) a design/build contract;
- (7) a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager; [or]
- (8) a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility; or
- (9) the reverse auction procedure as defined by Section 2155.062(d), Government Code.

SECTION 8. Section 36.067, Water Code, is amended by adding Subsection (c) to read as follows:

*(c) A district may use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing.*

SECTION 9. Section 49.273, Water Code, is amended by adding Subsection (k) to read as follows:

*(k) The board may use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing.*

SECTION 10. Section 23, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

*(e) A corporation may use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing.*

SECTION 11.(a) The changes in law made by this Act apply only to a contract for which requests for bids, proposals, or other applicable notice of an intent to contract are published or distributed on or after the effective date of this Act.

(b) This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Passed the Senate on April 19, 2001: Yeas 29, Nays 0, one present, not voting; and that the Senate concurred in House amendment on May 15, 2001: Yeas 29, Nays 0, one present, not voting; passed the House, with amendment, on May 8, 2001: Yeas 147, Nays 0, two present, not voting.

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